

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JOHN DOE AND JANE DOE,

Plaintiffs,

vs.

SAUL MATTHEW EISENBERG,

Defendant.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. 4:15-CV-01149

The Honorable David Hittner

**DECLARATION OF DAVID A. BATEMAN IN SUPPORT OF
PLAINTIFFS' MOTION FOR AWARD OF ATTORNEYS' FEES**

I am a partner in the law firm K&L Gates, LLP ("KLG") and make this declaration in support of Plaintiffs' Motion for Award of Attorneys' Fees ("Motion").

I was admitted to practice in Washington State in 1984 and have practiced continuously since then. I am the responsible partner for this lawsuit, and I have represented Plaintiffs in all phases of this litigation. I directed and supervised the work performed by other KLG lawyers throughout this matter. A copy of my biography and qualifications is attached as Exhibit 1.

At the time this case was filed in April 2016, I was supervising two associates working on this case, Michael Komo and Sean Brennan. Both Mr. Komo and Mr. Brennan left their positions as KLG attorneys before this case was set for trial. Mr. Brennan was succeeded by Jason Rudloff, who also left the firm. Plaintiffs are not seeking fees for any work by these departed attorneys.

Hannah Warren, a KLG associate, joined the trial team in 2019. A copy of her biography and qualifications is attached as Exhibit 2.

Andrew Knop, a KLG associate, joined the trial team in 2018. A copy of his biography and qualifications is attached as Exhibit 3.

As the responsible partner, I directed and supervised the work performed by Ms. Warren and Mr. Knop. I consider them both to be highly capable and competent.

I have been responsible for reviewing the time records in this case from its inception to the present. I am familiar with the activities that KLG attorneys and staff have performed in representing the Plaintiffs. I am also familiar with the time and cost of those activities.

Attached as Exhibit 4 to this declaration are true and correct copies of time entries for services rendered in this matter by Ms. Warren, Mr. Knop and myself. These entries represent contemporaneous billing records for this matter. The time entries contain sufficient detail of the task performed to show that the amount of time expended for the work described was reasonable. Moreover, given my role in the case, familiarity with the work performed, and my experience, as further described below, I have personal knowledge that the amount of time expended was reasonable.

Plaintiffs became clients of the KLG Cyber Civil Rights Legal Project (“CCRLP”) in early 2016.

Founded in 2014, the CCRLP is a pro bono effort to help victims of nonconsensual pornography by providing them legal assistance on a pro bono basis. The CCRLP is founded on the principle that people have a right of privacy in their intimate photographs and videos, and that the public, online dissemination of that media without consent is an invasion of that sexual privacy amounting to a “cyber civil rights” violation.

Recognizing that victims of this type of cybercrime often have limited access to legal counsel and few viable legal options, the CCRLP offers knowledgeable legal representation to victims around the globe. The project has been recognized with the 2016 Washington State Bar Association APEX Award for Pro Bono service. Its website is at cyberrightsproject.com.

At the time this case was filed in April 2016, a related criminal proceeding was underway, and this civil action was stayed until May 1, 2018. Once the stay was lifted, the parties proceeded with discovery. The case was ready for trial in March 2020, but sat idle for the following year during the pandemic.

As described in detail below, the lodestar for the work of Ms. Warren, Mr. Knop and myself, through trial, is \$566,980. Although this is a reasonable amount for the five years of litigation in this matter, Plaintiffs seek only an award of \$300,000.

Because this case lasted over five years, the hourly billing rates of the KLG lawyers has changed. My hourly billable rate hourly rate was \$590 when this case began in 2016. It increased to \$690 in 2018, \$800 in 2019, and most recently is \$925.

Ms. Warren's hourly rate was \$375 when she first joined the trial team in November 2019. It increased to \$480 in 2020, and \$530 in 2021.

Mr. Knop's hourly rate was \$380 when he first was involved in this case in 2018. His rate changed to \$405 in 2018, \$435 in 2020 and \$490 in 2021.

The following tabulates the hours recorded by each lawyer (as reflected on Exhibit 4) and the average rate billed:

Attorney	Category	Hours Worked	Average Rate	Total
Bateman	Partner	380.9	\$825	
Warren	Associate	193.7	\$494	
Knop	Associate	353.1	\$443	
Total		927.7	\$611	\$566,980

The rates charged by each attorney were the customary and normal rates charged to other KLG clients at the times each of the services was performed. Because our billing rates are based on market conditions, it is my belief that the rates charged by Ms. Warren and Mr. Knop reflected rates for similarly qualified attorneys in the Houston area. Based on my knowledge of what experienced litigation partners

bill in the Houston area, I believe that my rate (based on the Seattle market) are at or below rates normally charged in Houston.

Both the hours spent by KLG attorneys and the rates charged for those hours are reasonable and were necessary for the representation of Plaintiffs in this case. Because the rates and number of hours were reasonable, the total lodestar amount is also reasonable.

Had we not been representing Plaintiffs in this matter, our attorneys would have been fully utilized on other billable client work.

Pursuant to the United States Code, Title 28, Section 1746, I declare under penalty of perjury that the foregoing is true and correct.



David A. Bateman
K&L Gates LLP
925 4th Avenue, Suite 2900
Seattle, WA 98104
Phone: (206) 370-6682
Email: david.bateman@klgates.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was electronically filed with the Court and served through the CM-ECF system to all counsel for record registered to receive a Notice of Electronic Filing for this case on the 3rd day of May, 2021.

By: /s/ Hannah Warren
Hannah Warren